

Remarks

Claims 9-13, 15-24 are currently pending in the application. In the Office Action dated November 4, 2004, the Examiner has indicated that Claims 16, 23 and 24 are allowed. In addition, the Examiner has indicated in the body of Office Action on page 5 that Claims 12, 21, and 22 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. The Applicants thank the Examiner for the indication of the allowable and objected to subject matter.

Claims 9-11, 14, 15 and 18-20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by DE 29820904U1 to Schneider. According to the Examiner, the Schneider reference disclose a first spring extending from a toe region to a lower leg region, a second spring element extending from a heel region to a lower leg region, a tension element connected to a forward region of the first region and to a heel region of the second element. Applicants respectfully disagree.

Schneider does not disclose a first spring element extending from a toe region to a lower leg region. Rather, a longitudinal arc 2 extends from the toe region 8 to a heel region 5,6. Stripe 16 extends from the heel region to the lower leg region. The two elements are not connected to each other at the lower leg region, but are connected only at the heel region.

Consequently, Schneider cannot anticipate the claimed invention as Schneider does not meet the express limitation that the spring elements are connected to each other at the lower leg region. Therefore, the Applicants respectfully request the withdrawal of this rejection and an indication of the allowability of these claims.

Claims 9-11, 15, and 19-20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Pitkin, U.S. Patent No. 5,376,139. According to the Examiner, Pitkin discloses a

first spring extending from a toe region to a lower leg region, a second spring element extending from a heel region to a lower leg region, a tension element connected to a forward region of the first element and to the heel region of the second element, wherein the tension element is structured and arranged to be able to transmit only a tension force. Applicants respectfully disagree.

Pitkin shows a totally different type of foot prosthesis. The Pitkin foot prosthesis fails to disclose a spring element from a toe region to a lower leg region as well as a spring element extending from the lower leg region to the heel region. Pitkin describes an artificial tibia having a saddle-like head which is mounted on an artificial rear midfoot by elastic ties. Further, Pitkin does not disclose a tension element having two ends, with one end being connected to the forward region of the first spring element and the second end connected to the heel region of the second spring element. In addition, Pitkin does not disclose a ribbon-like tension element. Because Pitkin fails to disclose these express limitations in the claims, the rejection should be withdrawn and the claims indicated as being allowable over Pitkin.

Claims 9, 13-15, and 17-22 have been rejected by the Examiner under 35 U.S.C. § 112, first paragraph as 'containing subject matter which is not described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventor had possession of the claimed invention'. The Examiner asserts that the limitation related to the tension element capable of transmitting only a tension force is not disclosed. Applicants respectfully disagree.

On page 2, last paragraph, the tension element is clearly described as being ribbon-like and as being a stretch-free ribbon element. A ribbon-like element cannot transmit a compression force. A ribbon-like element can only transmit a tension force. Applicants have submitted the Declaration of Lutz Biedermann previously to support this point.

In addition, Applicants hereby submit the definition of ribbon-like. The definition states “long and thin; resembling a ribbon.” Furthermore, Applicants submit two articles that clearly show that a ribbon-like structure only has tensile strength and is incapable of transmitting a compressive force. On page 1 of the first article, on the application of Newton’s Law, it clearly states that “of course, a string, rope or a chain cannot support compression.” Similarly, on page 2 of the second article on the Introduction to Engineering and Statics it is stated “because you can only stretch a cable (you cannot compress it), the tension force must be positive T greater than zero. The Applicants once again submit it is well established that a ribbon-like element cannot be compressed. In view of these articles and declaration, the Applicants request the withdrawal of the rejection.

Claims 9, 13-15, 17, 19 and 20 have been rejected under 35 U.S.C. § 102(e) as being unpatentable over Doddroe et al., U.S. Patent No, 6,602,295. The Examiner alleges that Doddroe et al. disclose a prosthetic foot with a first spring element extending from a toe region, as designated by the Examiner, a second spring element extending from a heel region, as again determined by the Examiner, to a lower leg region. The Examiner states that the springs are connected by an adapter at the upper portion of the prosthetic foot and by a tension element. The tension element has two ends. The Examiner also asserts that the tension element is ribbon like and capable of transmitting a tension force between the ends. The Applicants respectfully disagree.

Doddroe et al. disclose a prosthetic foots having at least one toe spring, one heel spring and a foot plate 20. Foot plate 20 is not a ribbon-like; the foot plate is not long and thin and clearly does not resemble a ribbon. Secondly, the foot plate of Doddroe et al. is not capable of ONLY transmitting a tension force between its two ends as required by the claims. Rather the

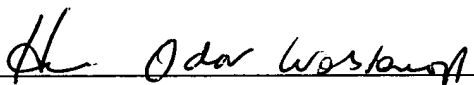
foot plate of Doddroe et al. not only transmits a tension force but the foot plate can also transmit a compression force. Consequently, Doddroe et al. do not meet the express limitations of the Claims as they currently stand. Therefore, the Applicants respectfully request withdraw of the rejection and an indication of the allowability of the claims in view of the teachings of Doddroe et.al.

In view of the amendments and arguments presented herein, the application is considered to be in condition for allowance. Reconsideration and passage to issue is respectfully requested. Applicants further submit that the references cited by the Examiner, by themselves or in any combination, neither anticipate nor render obvious the claimed invention. If the Examiner has any questions, he is respectfully requested to contact the undersigned.

Please charge any additional fees and/or credit any overpayments associated with this application to Deposit Order Account No. 501581.

Respectfully submitted,

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